

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

**KAREN HUGHEY,
Conservator for James Allen Hughey**

PLAINTIFF

V.

CIVIL ACTION NO: 3:18-CV-4-GHD-RP

**TIPPAH COUNTY, MISSISSIPPI,
TOMMY MASON, in His Individual Capacity,
and “X” Bonding Company**

DEFENDANTS

PLAINTIFF’S MOTION FOR LEAVE TO FILE SECOND AMENDED COMPLAINT

Plaintiff Karen Hughey respectfully moves the Court to file a Second Amended Complaint.

The grounds for this Motion are as follows:

1. James Hughey filed an original Complaint on January 4, 2018. Doc. 1.
2. The case was previously stayed for six (6) years because of a pending state criminal case, and because of Motions for Judgment on the Pleadings. *See* Docs. 14, 15, 28, 30, 31, 33, 40, 72, 103, 104, 110, 118, 119, and 121.
3. On July 2, 2024 the Court granted Defendant Mason’s Motion for Judgment on the Pleadings in favor of Defendant Mason on the federal claim of use of excessive force. Doc. 132. On July 3, 2024, the Court lifted the stay. Doc. 133.
4. In granting the Motion for Judgment on the Pleadings, the Court reasoned that James Hughey had not plead facts showing his own conduct at the time Defendant ruptured James Hughey’s spleen and ruptured several of his ribs. James Hughey remains unable to plead any such facts concerning his conduct because he has no memory of the beating Defendant Mason inflicted

upon him.

5. The proposed Second Amended Complaint pleads details relevant to the remaining claims against both Defendants.

6. This Court has granted judgment on the pleadings for Defendant Mason. Doc. 132. However, this Court has authority at any time to reconsider this interlocutory order. FED. R. CIV. P. 54(b); *Renfroe v. Parker*, 2019 WL 3806641 *1 (S.D. Miss. 2019).

7. This Court should allow the Second Amended Complaint because the First Amended Complaint needs more detail. Pleading more detail may prevent another dispositive motion and another stay. A further stay is not in the interest of justice, and is not consistent with FED. R. CIV. P. 1, which directs a “speedy” resolution of every case.

8. Additionally, Plaintiff’s first amended complaint fails to plead a failure to train theory, and this theory should be plead. No discovery has occurred, so there is no prejudice.

9. As this Motion is self-explanatory Plaintiff requests to be relieved of submitting a supporting memorandum.

WHEREFORE, Plaintiff Karen Hughey prays that she will be granted leave to file the Second Amended Complaint, attached hereto as Exhibit “1.”

RESPECTFULLY SUBMITTED, this the 16th day of July, 2024.

KAREN HUGHEY, Conservator for James Allen
Hughey, Plaintiff

By: /s/ Jim Waide

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CERTIFICATE OF SERVICE

This will certify that undersigned counsel for Plaintiff has this day filed the above and foregoing with the Clerk of the Court, utilizing the federal court electronic case data filing system (CM/ECF), which sent notification of such filing to the following:

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DATED, this the 16th day of July, 2024.

/s/ JIM WAIDE
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